

Key Legislative Business Bills

The Fall 2003 legislative session brought three reasons for small businesses to sit up and take notice. Key bills that address the regulatory climate were taken up in the Senate and Assembly.

Environmental Results/ Environmental Improvement

The program formerly known as "Green Tier" has been in development for five years. It began as an idea in the Department of Natural Resources (DNR) Bureau of Cooperative Environmental Assistance. In 2001 an advisory group was formed to gain input from stakeholders. This advisory group developed rule language that was agreed upon by all parties involved. Companion bills AB228 and SB61 were developed based upon that rule language.

The **Environmental Results Program** would provide incentives to public and private entities for improving environ-

mental performance. There are two tiers in the program.

In tier I, a participant who had not been convicted of a criminal violation of environmental laws in the past five years would agree to implement an environmental management system. Once the environmental management system was implemented, they would agree to perform annual audits of the system and submit reports of the audits to DNR. In return the company would receive recognition of its participation in tier I and be inspected at the lowest frequency allowed by DNR.

Tier II participants must not have a criminal violation in the past ten years and have already implemented an environmental management system. The participant agrees to have a third party auditor perform annual audits of the system as well as their compliance with environmental laws, and submit reports
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A Note From the Small Business Clean Air Assistance Program (SBCAAP)

We have temporarily expanded our newsletter mailing to reach more businesses with air permits. DNR asked for help in publicizing their Air Permit Improvement Initiative (see page 7).

The SBCAAP can be your voice if you want to anonymously provide DNR with input on this initiative.

Contact us with your input or if you would like to be on the permanent mailing list. Call (608) 264-6153 or email CleanAir@commerce.state.wi.us.

Measurement Tools for Voluntary Efforts

Regulatory agencies, corporations, community groups, and environmental organizations all are trying voluntary programs to gain emissions reductions and other environmental benefits. How do they know their programs are achieving what they set out to do? Measurement, or developing metrics, is the best way to evaluate an activity.

Emissions reductions from known manufacturing activities or mobile sources

(vehicles) can be measured with technology, such as test probes in an exhaust pipe. Other environmental benefits are not so easy to measure. Sometimes an action that reduces emissions moves the problem from one environmental media to another. For example, reducing air pollution with a "wet scrubber" creates water pollution that needs to be handled properly.

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Measurement of Voluntary Programs (cont from Page 1)

DNR recently created tools to measure and recognize voluntary emissions reductions that provide both tangible and intangible environmental benefits.

Voluntary Initiatives Tools

For the past year, the DNR Voluntary Initiatives Team created tools to help staff, citizens, businesses and organizations access and review existing voluntary program achievements or help form or improve their own programs.

These tools address both quantitative and qualitative aspects of voluntary programs and include an inventory of air-related voluntary programs: a Feasibility and Outcomes Assessment Matrix; and a Streamlined Life Cycle Assessment. Background information is provided to orient users on how to get the best use from these tools. For assistance, contact Ed Jepsen at: 608.266.3538 or edward.jepsen@dnr.state.wi.us.

The tools are accessible on the following web site:

www.dnr.state.wi.us/org/aw/air/voluntary/index.htm

Voluntary Emissions Reduction Registry

Many Wisconsin companies manage their operations in ways that achieve lower levels of air emissions than the law requires. These reductions may be a secondary result of energy-efficient measures aimed at bottom line benefits for the firm. DNR has adopted chapter NR 437 of the Wisconsin Administrative Code to recognize and track these voluntary reductions.

Regulated air pollutants of particulate matter, nitrogen oxides, sulfur dioxide, volatile organic compounds, carbon monoxide, and lead, along with greenhouse gasses and mercury can be registered. See the side bar for registration thresholds, or go to the web site:

www.dnr.state.wi.us/org/aw/air/registry/ ❖

Voluntary Efforts Measurement Tools

Voluntary Initiatives Tools

Feasibility and Outcomes Assessment - set of questions related to each stage of implementation that help determine if one has explored all of the factors involved; questions focus on the qualitative outcomes that lead to the less tangible benefits of voluntary initiatives such as increased participant awareness and knowledge of environmental impacts.

Streamlined Life-Cycle Assessment - set of questions regarding each life-cycle stage a program may impact; scoring based on environmental benefit or lack thereof; a completed assessment will allow one to see the environmental benefit of a program from a life-cycle view; may also identify areas where there are unintended shifts of pollution from one media to another.

Voluntary Emissions Registry

<u>Pollutant</u>	<u>Registry Threshold</u>
Greenhouse gas	25 TPY* CO ₂ equiv.
Nitrogen oxides	1 TPY
Sulfur dioxide	1 TPY
Volatile organic compounds	1 TPY
Particulate - 10 micron	1 TPY
Particulate - 2.5 micron	1 TPY
Carbon monoxide	1 TPY
Lead and lead compounds	0.5 TPY
Mercury and mercury cmpds	1 pound/yr

*TPY = tons per year

IMPORTANT NOTICE: DNR SMOKE SCHOOL

Due to budgetary constraints, DNR's "Smoke School" (a.k.a. Visible Emissions Certification) has been cancelled. The program was usually held in April and October each year.

Information on other resources for smoke school certification is available on their web page:

www.dnr.state.wi.us/org/aw/air/tech/smokeschool.htm

Key Legislative Business Bills (cont. from Page 1)

on those audits to DNR. They also agree to propose measures that demonstrate “superior environmental performance” and that go beyond what is achieved under environmental laws. DNR is authorized to develop, but the bill does not specify what, incentives for participation in tier II.

The **Environmental Improvement Program** would allow a participant to avoid forfeitures for an environmental violation voluntarily reported to the DNR. The violation must be discovered through the entity’s performance of an environmental compliance audit. The entity must notify DNR of their intent to perform such an audit. Within one year from that notification, the company must complete the audit and submit the results to DNR. The report must include any violations found and the actions taken or proposed to be taken to correct the violation. If it will take longer than 90 days from the date of the audit to correct the violations, a compliance schedule must be proposed to DNR along with penalties it will accept if deadlines are not met.

The companion bills were passed by their respective houses and await the Governor’s signature.

Permit Application Review Deadlines

Business concerns regarding state agency response times to permit applications led to the creation of companion bills SB246 and AB486.

These bills require that state agencies set time periods for action on permit applications. If the agency fails to take action on an application (approve or deny) within that time period, there are two possible consequences. For some types of applications, if the agency fails to respond within the set time period, the application will be automatically approved. AB486 includes air pollution permits in this category while SB246 does not.

For applications that do not require automatic approval, an agency must refund fees paid for the application if it fails to meet the deadline. Air pol-

lution permits are included in this category in SB246 while they are not in AB486.

The Senate passed their version on September 23, 2003. The Assembly adopted two amendments and then passed the rule on October 2, 2003. The rules were scheduled for review by the Joint Finance Committee on October 9, 2003.

Regulatory Oversight

Findings from the Small Business Regulatory Reform Task Force, made their way into legislation under SB100 and AB267. The bill changes the definition of “small business” and creates a Small Business Regulatory Review Board.

The bill changes the definition of small business to include those with “25 or fewer employees” and raises the gross annual sales cut off from \$2,500,000 to \$5,000,000. Each state agency would be required to submit to the Small Business Regulatory Review Board any proposed rule determined to have a significant impact on small business.

The Small Business Regulatory Review Board would have the authority to review the regulations to ensure that sufficient measures were taken to reduce impact on small business and that the regulatory flexibility analysis was properly prepared.

The rule also proposes that agencies review all of their existing regulations to determine if they place an unnecessary burden on small business. The agencies will be required to repeal or amend any such rules.

SB100 was passed on September 23, 2003. On October 2, 2003, the Assembly adopted four amendments, but then suspended the rule for a third reading.

To check on the status of these rules you can go to www.legis.state.wi.us/billtext.html or just call SBCAAP staff. ❖

MACT Training Online - Secondary Aluminum Standard

Training on the Secondary Aluminum MACT (Maximum Achievable Control Technology) Standard was organized by the Lake Michigan Air Director's Consortium and Region 5 Training Committee. MACT Standards are federal regulations on hazardous air pollutant emissions from specific industrial categories.

The Secondary Aluminum MACT affects very small sources. One tool developed to help these sources understand and comply with the rule is an online training program. The online course, including presentation materials, are available at Illinois EPA's web site:

<http://www.epa.state.il.us/air/mact/>

At this site, click on the link for "Small Secondary Aluminum Production Facilities". On the Secondary Aluminum MACT page, under "Webcast," click on the first link to view the course. If you do not have a high-speed line -- either DSL or Cable Modem -- you may want to check your local public library. If you have trouble downloading the presentation materials under "Powerpoint Presentations" -- some are very large documents -- please contact the Small Business Clean Air Assistance Program (SBCAAP) and we can mail you a hard copy.

If you view the online training course, please fill out the online program evaluation form, which is found by clicking on the second link under the "Webcast" heading. Also, let the SBCAAP know if you would like to see more of this type of training made available. ❖

Regulatory Overview Course by WI CHMM

It's that time again, when the Federation of Environmental Technologists (FET, Inc.) and the Wisconsin CHMM (Certified Hazardous Materials Manager) Chapter co-sponsor the Federal Environmental Regulatory Overview course. The course consists of weekly sessions from November through February, except for weeks that include a holiday.

This course prepares individuals for the CHMM exam on March 8, 2004. Any environmental staff that would like a comprehensive review of the federal environmental regulations is also encouraged to take this course.

The course will be offered in two locations this year: Brookfield Publicly Owned Treatment Works and Green Bay Metropolitan Sewerage District. Each session will take place from 6:00 pm - 9:00 pm. Session topics and dates are shown in the table to the right. Register **by October 29** for the full course. You may register for individual sessions as well.

Registration materials are available from FET at <http://www.fetinc.org>. After October 29, you can register by sending an email to register@fetinc.org. ❖

Session Topics	Brookfield	Green Bay
1. Physical and Chemical Properties	11/5	11/6
2. RCRA	11/12	11/13
3. Haz Mat'l Transportation; SARA Title III; CERCLA	11/19	11/20
4. Toxicology, Radiation; FIFRA; TSCA	12/3	12/4
5. Clean Air Act; Process Safety Management; Risk Management	12/10	12/11
6. OSHA Hazard Comm; Hazwoper & PPE; Sampling & Bloodborne pathogens	12/17	12/18
7. Clean Water Act; Multi-media sampling; Data Validation & Quality Assur.	1/7	1/8
8. SPCC; Oil Pollution Prevention; USTs & ASTs; Remediation	1/14	1/15
9. Program Mgmt; ISO 14000; Real Estate; Enviro. Liability; NEPA	1/21	1/22
10. Asbestos & Lead; Mixed Waste Management	1/28	1/29
11. Scenario Training; Course Review	2/4	2/5

Energy Management Tool for Small Business

The SBCAAP has received a lot of interest in the "Practical Guide to Environmental Management" and the new companion workbook "Documenting your Environmental Management Plan". As a result of that interest, a similar tool available for energy management was brought to our attention. This tool is called "Practical Energy Management." It is available from the Wisconsin Focus on Energy program.

What is Practical Energy Management?

Practical Energy Management© (PEM©) is a customizable template for an energy management program. It will help you quickly and easily manage your organization's energy costs. The PEM template packages all the elements in one binder; it provides everything you need to better manage your facility's energy costs.

PEM's Benefits

By implementing PEM, you will reduce your facility's monthly energy costs. In addition, you and your staff will save time with the PEM approach. All the basic elements of an effective energy management program are provided, including the templates and spreadsheets. You no longer have to search around for each individual element.

PEM Overview

The PEM approach includes tools that help you quickly implement an energy management program or enhance an existing program. This approach overcomes many barriers to effective energy management, including:

- 1) limited staff time;
- 2) inability to identify opportunities;

- 3) inability to affect process energy use; and
- 4) lack of a continual improvement approach.

PEM will help you establish an energy policy, set energy goals and track projects. It provides calculation tools to benchmark energy use per units of production and estimate equipment energy use. This practical approach addresses multiple company goals, from developing a systematic approach to energy management to integrating energy management into an ISO 14000 or Six Sigma program.

Sample Section: The Best Practices section for common end-use systems provides a first cut estimate of possible savings and practical implementation tips. Systems covered include: compressed air, motors, lighting, refrigeration, steam systems, and many more.

Learn More

Focus on Energy has trained over 300 Wisconsin companies to use PEM. If you are located in Wisconsin and want more information about the free PEM package or upcoming training events, call (608) 277-2946 or e-mail Focus on Energy at haukej@saic.com.

Focus on Energy is a public-private partnership offering energy information and services to residential, business, and industrial customers throughout Wisconsin. The goals of this program are to encourage energy efficiency and use of renewable energy, enhance the environment, and ensure the future supply of energy for Wisconsin. ❖

Another Round of MACT Standards Became Final

EPA Acting Administrator Marianne Lamont Horinko signed final standards for MACT for 12 source categories just prior to August 30, 2003. MACT standards set a level of emissions reductions of air toxics from these source categories. In an agreement, EPA had to sign these 12 standards prior to August 30, 2003 to nullify the deadline for Part 2 MACT Hammer applications by October 30, 2003 for sources affected by those standards.

The standards are expected to be published in the Federal Register in October, at which time they become effective. The effective date of the rule is important because it sets out the different deadlines by which a source will have to comply under the rule.

The first deadline for most of these source categories will come fairly quickly. Each source that is affected by a rule must submit an initial notification form to the DNR. The majority are due within 120 days of the effective date of the rule while others have one year from the effective date. The timeline for the Initial Notification dates is shown in the table below.

EPA has developed a generic initial notification form that can be used for any one of these MACT standards. You can find a copy in Adobe PDF on the Department of Commerce web site listed in the table to the right. Go to the Federal Regulations section and click on the underlined link to the form ("**Initial Notification Form**") at the first bullet and print the form to complete it.

To properly complete the form, indicate how you determined you are an affected source. If you need help with calculations to make this determination, contact

the SBCAAP for worksheets or one-on-one assistance.

These MACT Standards have a compliance deadline three years after the effective date for an existing source. This gives sources time to consider their options for complying with the rule. There may be ways to include pollution prevention techniques into the operations and avoid the rule entirely. For that to happen, you must eliminate or reduce the hazardous air pollutant (HAP) emissions to below the major source thresholds of 10 tons per year for any single HAP and 25 tons per year of all HAPs combined. SBCAAP staff can direct you to resources for pollution prevention techniques and practices.

You will find links to the specific rules for some of these source categories by going to the web site link provided previously and scrolling down to the end of the Federal Regulations section. There is a table with the source categories listed, the MACT standard effective date, the compliance due date, and a brief description of tools from EPA. ❖

MACT Categories Final in August 2003

For Initial Notification Form go to:

<http://www.commerce.state.wi.us/MT/MT-CA-newregs.html>

<u>Source Category</u>	<u>Initial Notification Due</u>
Combustion Turbines	120 days
Lime Manufacturing	120 days
Site Remediation	120 days
Iron and Steel Foundries	120 days
Taconite Iron Ore Processing	120 days
Miscellaneous Organic Chemical Manufacturing (MON) ^a	120 days
Organic Liquids Distribution	120 days
Primary Magnesium Refining	120 days
Metal Can (Surface Coating)	1 year
Plastic Parts and Products (Surface Coating)	1 year
Mercury Cell Chlor-Alkali Production	120 days
Miscellaneous Metal Parts and Products (Surface Coating) (and Asphalt/Coal Tar Application - Metal Pipes) ^b	1 year

^a Covers 23 source categories - go to web site above for full list.

^b Two source categories.

Hot Topics in DNR's Air Program

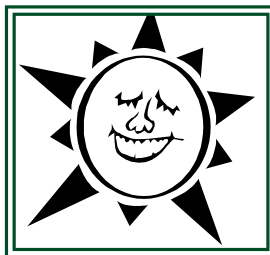
Check them out at: www.dnr.state.wi.us/org/aw/air/hot/index

DNR's Air Permit Improvement Initiative

Following up on the information provided in our last edition about the Air Permit Improvement Initiative, the teams have been quite active.

New Source Review Retooling

The public can follow the progress of the New Source Review Retooling team by going to the address above and clicking on "Advisory Groups" and then "New Source Review Retooling Advisory Group" to review copies of minutes and other working documents. Weekly meetings are taking place from October through early November. Detailed discussions on rule language have been the primary focus. The language being developed at this time will only affect major sources around the state. SBCAAP staff is participating on this team and can provide assistance if you have questions on the activities of this team.



Permit Streamlining

The Air Permit Streamlining Team, consisting of DNR managers and Air and Information Technology staff, held an initial meeting in late August and another in mid September. Sub-groups were formed to examine eight potential areas where streamlining and efficiencies could be realized. External stakeholders will be involved later, as described in the points below.

- The permit process for Air Management Construction and Operation Permits will be mapped. This will involve identifying all of the steps in the permitting processes and analyzing them in terms of the volume of work and time involved with each distinct step. The value and necessity of each step will be analyzed with respect to how it protects the environment and human health.
- Stakeholders will be surveyed regarding problems and concerns they have with the permitting

process. The survey will focus on specific feedback on direct and indirect cost impacts, the time it takes to process a permit and the value the permit provides with respect to providing environmental protection. Stakeholders surveyed will include but not be limited to regulated facilities, environmental groups, local units of government, EPA staff and economic development specialists.

- Air permit drafters and other air management staff will be surveyed to get their ideas on how to streamline the permitting process.
- An information analysis will look at past efforts to streamline the air permitting processes and the present status of those processes. This analysis will look at previous recommendations and check their progress or lack thereof.
- Regulatory streamlining methods used in other states, particularly those running successful programs, will be reviewed and considered for implementation.
- Non-regulatory tools other states and countries have used to achieve environmental protection and improvement will be reviewed for potential implementation in lieu of permits.
- Obvious and easily implementable streamlining policies will be put into practice as soon as possible.

The process improvements identified as a result of this permit streamlining effort will enable the air program to quickly and efficiently eliminate the backlog of operation permits and handle revisions or renewals of operation permits in a timely manner. In addition, the Department will establish a target of approving or denying new operation permit applications within 180 days of submission of a complete application.

Once external stakeholders are involved, an external web site will become available. ❖

Air Issues Updates Schedule for 2004

The Federation of Environmental Technologists (FET); the Wisconsin Department of Commerce, Small Business Clean Air Assistance Program; and the Department of Natural Resources, Air Program are once again sponsoring the Air Issues Update programs in January 2004.

The following topics are scheduled to be on the agenda for these sessions:

- **8-Hour Ozone Update**
- **Consolidated Reporting System**
- **Air Program's Redeployment**
- **Permit Primer Demo**
- **Regulatory Updates:** *State Hazardous Air Pollutant Rule, Mercury, Open Burning, Asbestos Citation Authority.*
- **Air Permit Improvement Initiative Progress**
- **Legislative Update Panel Discussion**

The agenda may also include a session on DNR's new Emissions Reduction Registry. The program is presently scheduled from 8:00 am through 4:00 pm. The dates and locations for the 2004 sessions are as follows:

January 13 in Kimberly
January 14 in Wausau
January 15 in Eau Claire
January 21 in Brookfield
January 22 in Madison

The one-day course will cost \$90 for each registrant. To register, go to FET's web site at www.fetinc.org and click on Upcoming Events to find and print off the agenda/registration form. Or you can contact FET at info@fetinc.org or 262/644-0070. ❖

WISCONSIN DEPARTMENT OF COMMERCE

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SBCAAP

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If addressee unknown, please route to
appropriate person:

- ☐ Environmental Manager,
- ☐ Health & Safety Manager,
- ☐ Plant Manager, or
- ☐ Owner/President